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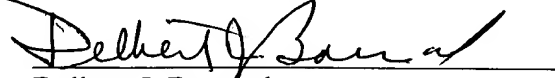
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PATENT APPLICATION

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on April 22, 2004.

April 22, 2004

  
Delbert J. Barnard  
Registration No. 20,515

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit: 3611  
Examiner: Cassandra Hope Davis  
Applicant: Richard Eric Nemeth  
Serial No.: 09/669,150  
Filed: September 25, 2000  
For: HEAD MOUNTED LETTER "M" DISPLAY  
Date: April 22, 2004

**DECLARATION OF RICHARD ERIC NEMETH UNDER 37 C.F.R. §1.131**

I, RICHARD ERIC NEMETH, do hereby declare and say that:

1. I am the inventor of the head mounted letter "M" display that is disclosed and claimed in the above identified patent application. When I refer to "my invention" in this Declaration, I mean the head mounted letter "M" display that is claimed in claims 1-10. Herein, I also refer to my invention as the "M" hat.

2. This Declaration addresses U.S. Design Patent No. D449,424, granted on October 23, 2001, to William Wood Dorner and Keith Louis Read, from an application that was filed on August 23, 2000. I am unable to determine from this patent either the size of the disclosed article, the material from which it is made and/or how it is worn by a user. Nevertheless, prior to August 23, 2000, I made several "M" hats and they were worn in public at a baseball game that was held in Seattle, Washington on Monday, May 29, 2000.

3. On May 29, 2000, my sister Erin Nemeth Cox and my brother-in-law Patrick Cox called me and told me that they had two extra tickets for the Seattle Mariners game that was going to be played that evening. They offered the two tickets to me and I accepted them. I then called Jeff Nickerson, a friend, and invited him to go to the game with me. Exhibit I constitutes photocopies of seats 8 and 9, in row 11 of section 123, for the game played May 29, 2000, between the Seattle Mariners and the Chicago White Sox, and a parking coupon for the same day. Jeff Nickerson and I sat in these seats during the game on May 29, 2000. My sister and her husband used the second pair of tickets and the parking coupon for that day.

4. I conceived the "M" hat invention prior to the May 29<sup>th</sup> game. However, on the day of the game, I decided to make several of the "M" hats and take them with me to the game. On the day of the game, I purchased from a fabric store near my home a plank of foam plastic measuring about two feet wide, about six feet long and about three inches thick. I made a pattern in the shape of the letter "M" from cardboard. I had experience cutting plastic foam with an electric knife and so I was able to make the "M" hats myself. I used the electric knife and the cardboard pattern to cut four "M" hats from the plank of foam plastic. Exhibit II shows the "M" hats that I made and took to the game on May 29, 2000. They were substantially as shown by Fig. 1-8 of my patent application.

5. I made four "M" hats, one for me, one for Jeff Nickerson, one for my sister Erin

Nemeth Cox and one for her husband Patrick Cox. Jeff Nickerson and I wore our "M" hats when we walked to where we met my sister and her husband. When we met, I gave my sister and her husband their "M" hats and all four of us wore the "M" hats as we walked to Safeco field, the ball park where the Mariners play their games.

6. The four of us wore the "M" hats a lot while sitting in our seats. We also took them off and waived them in the air like pom-poms. We received a lot of interest in and comments about our "M" hats while we were walking to the ballpark, while we were in our seats, while we were walking around in the ballpark, and when leaving the ballpark after the game.

7. The May 29, 2000 game was televised. It so happened that our seats were close to one of the dugouts and were on camera on several occasions during the game. Prior to the game, I called my father John Nemeth, while he was at work. I asked him to videotape the game for me. He agreed to and did videotape the game and later gave the tape to me. Exhibit III is a still photograph made from the videotape. It clearly shows three of the "M" hats, including one being worn on my sister's head. This is the "M" hat shown on the right. I am to the right of her holding up my hat. The pictures show the side members of the "M" hat being bent slightly by Erin's head which is positioned between them. The "M" hat fitted on Erin's head very much in the manner shown by Figs. 1-7 of the patent application drawing.

8. As shown by Exhibits II and III, each of the four "M" hats had a foam body in the shape of a letter "M". It included a pair of laterally spaced apart side portions and an interconnecting portion. The interconnecting portion formed a substantially "V" shaped central upper portion of the letter "M". The side portions depended from said interconnecting portion and defined a space between them. This space was below the interconnecting portion. It formed the side portions of the letter "M". The side portions of the foam body included confronting, temple engaging, inside surfaces, spaced apart a distance less than a temple-to-temple width of

a person's head. The foam body was constructed from a springable foam that stored spring energy when bent and allowed the side portions to be sprung apart. When released, the side portion moved back towards each other. In order to install the "M" on our heads, we sprung the side portions apart enough so that each of us could place his/her head between the side portions. Then, the side portions were released so that they sprung back towards their static positions and clamped onto the wearer's head. This worked very well to secure the letter "M" display on the wearer's head.

9. The foam body of the "M" hat was constructed from a foam plastic that compressed and stored spring energy. As a result, there was some compression of the side portions of the foam body when the foam body was clamped onto a person's head.

10. As shown by Exhibits II and III, the side portions of the foam body were squared members. The inside surfaces of the side portions were substantially plainer and were parallel to each other. The "M" hat shown on the right in Exhibit III is substantially in the position shown by Figs. 1, 2, 4 and 7 of the drawings of my patent application.

11. I found that the "M" hats worked like I expected them to work. They sufficiently clamped themselves onto the wearer's head. They created substantial interest in the observers who saw them being worn on our heads.

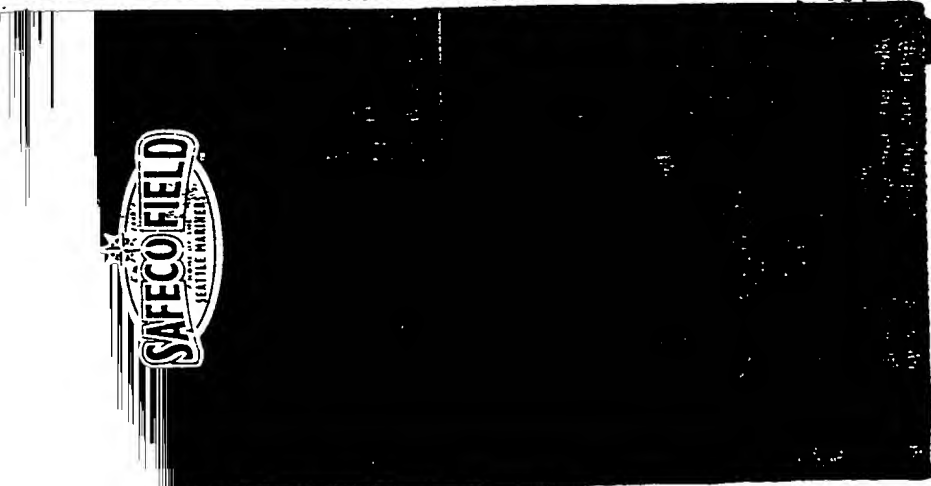
12. The video of the game that was played on May 29, 2000 between the Seattle Mariners and the Chicago White Sox still exists. It is believed that a copy can be obtained from the network who has the rights to televise the game. Also, I still possess the videotape that my father made on the day of the game.


I hereby declare that all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are

punishable by fine or imprisonment, or both, pursuant to 18 U.S.C. §1001 and that such willful false statements may jeopardize the validity of the patent application and any patent issuing thereon.

4/20/2004  
DATE

  
RICHARD ERIC NEMETH





# MARINERS

GAME 22  
MARINERS vs. WHITE SOX  
MON., MAY 29, 2000 - 5:05 PM

BOX 477483


SECTION	ROW	SEAT
123	11	8

BOX

MON., MAY 29, 2000 - 5:05 PM

SECTION	ROW	SEAT
123	11	8

BOX \$32.00



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# MARINERS

GAME 22  
MARINERS vs. WHITE SOX  
MON., MAY 29, 2000 - 5:05 PM

BOX 477483

SECTION	ROW	SEAT
123	11	9

BOX

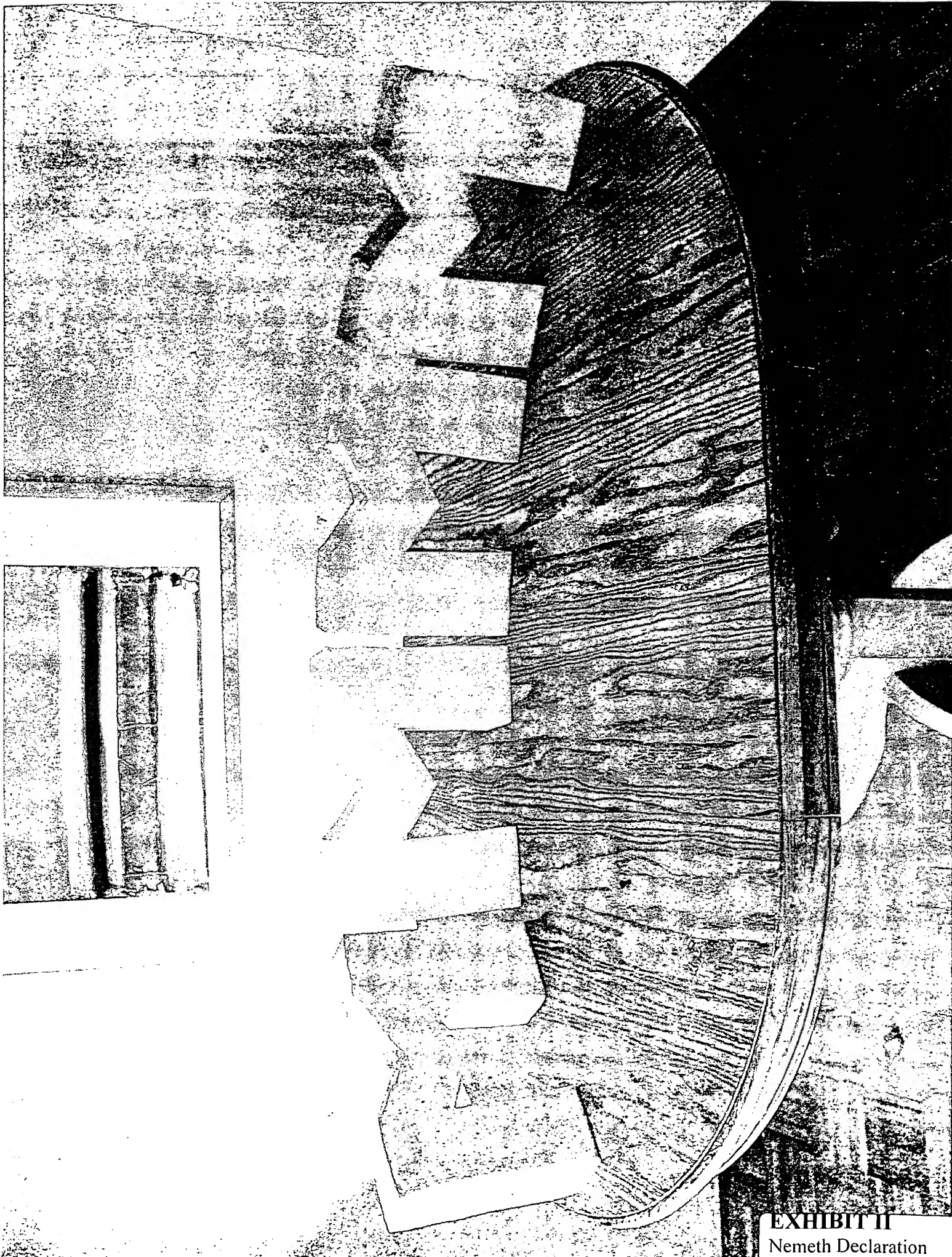
MON., MAY 29, 2000 - 5:05 PM

SECTION	ROW	SEAT
123	11	9

BOX \$32.00



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**EXHIBIT II**  
Nemeth Declaration





**EXHIBIT III**  
Nemeth Declaration